

# House File 320 - Introduced

HOUSE FILE 320

BY WESSEL-KROESCHELL

## A BILL FOR

1 An Act relating to the intentional transmission of a contagious  
2 or infectious disease, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   709D.1   Title.

2     This chapter shall be known and may be cited as the  
3     *"Contagious or Infectious Disease Transmission Act"*.

4     Sec. 2. NEW SECTION.   709D.2   Definitions.

5     As used in this chapter, unless the context otherwise  
6     requires:

7     1. *"Contagious or infectious disease"* means hepatitis in any  
8     form, meningococcal disease, AIDS or HIV as defined in section  
9     141A.1, or tuberculosis.

10    2. *"Exposes"* means engaging in conduct that poses a  
11    substantial risk of transmission, but does not include conduct  
12    posing a low or negligible risk of transmission, consistent  
13    with guidance issued by the centers for disease control and  
14    prevention of the United States department of health and human  
15    services.

16    3. *"Practical means to prevent transmission"* means  
17    substantial compliance with a treatment regimen prescribed  
18    by a health care provider that measurably limits the risk  
19    of transmission of the contagious or infectious disease,  
20    substantial compliance with behavioral recommendations of  
21    the infected person's health care provider or public health  
22    officials to measurably limit the risk of transmission of the  
23    contagious or infectious disease, or other methods generally  
24    accepted by the medical profession to measurably limit the risk  
25    of transmission of the contagious or infectious disease, such  
26    as use of a medically indicated respiratory mask or use of a  
27    prophylactic device.

28    Sec. 3. NEW SECTION.   709D.3   Intentional transmission of a  
29    contagious or infectious disease.

30    1. A person commits a class "C" felony when the person  
31    knows the person is infected with a contagious or infectious  
32    disease and exposes an uninfected person to the contagious or  
33    infectious disease with the intent that the uninfected person  
34    contract the contagious or infectious disease, and the conduct  
35    results in the uninfected person becoming infected with the

1 contagious or infectious disease.

2     2. A person commits a class "D" felony when the person  
3 knows the person is infected with a contagious or infectious  
4 disease and exposes an uninfected person to the contagious or  
5 infectious disease with the intent that the uninfected person  
6 contract the contagious or infectious disease, but the conduct  
7 does not result in the uninfected person becoming infected with  
8 the contagious or infectious disease.

9     3. A person commits an aggravated misdemeanor when the  
10 person knows the person is infected with a contagious or  
11 infectious disease and exposes an uninfected person to the  
12 contagious or infectious disease acting with a reckless  
13 disregard as to whether the uninfected person contracts the  
14 contagious or infectious disease, and the conduct results in  
15 the uninfected person becoming infected with the contagious or  
16 infectious disease.

17     4. The act of becoming pregnant while infected with a  
18 contagious or infectious disease, continuing a pregnancy while  
19 infected with a contagious or infectious disease, or declining  
20 treatment for a contagious or infectious disease during  
21 pregnancy shall not constitute a crime under this chapter.

22     5. Evidence that a person knows the person is infected with  
23 a contagious or infectious disease and has engaged in conduct  
24 that exposes others to the contagious or infectious disease,  
25 regardless of the frequency of the conduct, is insufficient  
26 on its own to prove the intent to transmit the contagious or  
27 infectious disease.

28     6. A person does not act with the intent required pursuant  
29 to subsection 1 or 2, or with the reckless disregard required  
30 pursuant to subsection 3, if the person takes practical  
31 means to prevent transmission, or if the person informs  
32 the uninfected person that the person has a contagious  
33 or infectious disease and offers to take practical means  
34 to prevent transmission but that offer is rejected by the  
35 uninfected person subsequently exposed to the infectious or

1 contagious disease.

2     7. It is an affirmative defense to a charge under this  
3 section if the person exposed to the contagious or infectious  
4 disease knew that the infected person was infected with the  
5 contagious or infectious disease at the time of the exposure  
6 and consented to exposure with that knowledge.

7     Sec. 4. Section 141A.9, subsection 2, paragraph i, Code  
8 2013, is amended to read as follows:

9     *i.* Pursuant to sections 915.42 and 915.43, to a convicted or  
10 alleged sexual assault offender; the physician or other health  
11 care provider who orders the test of a convicted or alleged  
12 offender; the victim; the parent, guardian, or custodian of the  
13 victim if the victim is a minor; the physician of the victim  
14 if requested by the victim; the victim counselor or person  
15 requested by the victim to provide counseling regarding the  
16 HIV-related test and results; the victim's spouse; persons  
17 with whom the victim has engaged in vaginal, anal, or oral  
18 intercourse subsequent to the sexual assault; members of the  
19 victim's family within the third degree of consanguinity; and  
20 the county attorney who ~~may use the results as evidence in the~~  
21 ~~prosecution of sexual assault under chapter 915, subchapter V,~~  
22 ~~or prosecution of the offense of criminal transmission of HIV~~  
23 ~~under chapter 709C~~ filed the petition for HIV-related testing  
24 under section 915.42. For the purposes of this paragraph,  
25 "*victim*" means victim as defined in section 915.40.

26     Sec. 5. Section 692A.101, subsection 1, paragraph a,  
27 subparagraph (9), Code 2013, is amended by striking the  
28 subparagraph.

29     Sec. 6. Section 692A.102, subsection 1, paragraph c,  
30 subparagraph (23), Code 2013, is amended by striking the  
31 subparagraph.

32     Sec. 7. Section 915.43, subsections 4 and 5, Code 2013, are  
33 amended to read as follows:

34     4. Results of a test performed under this subchapter,  
35 except as provided in subsection 13, shall be disclosed only

1 to the physician or other practitioner who orders the test of  
2 the convicted or alleged offender; the convicted or alleged  
3 offender; the victim; the victim counselor or person requested  
4 by the victim to provide counseling regarding the HIV-related  
5 test and results; the physician of the victim if requested by  
6 the victim; the parent, guardian, or custodian of the victim,  
7 if the victim is a minor; and the county attorney who filed  
8 the petition for HIV-related testing under this chapter, ~~who~~  
9 ~~may use the results to file charges of criminal transmission~~  
10 ~~of HIV under chapter 709C.~~ Results of a test performed under  
11 this subchapter shall not be disclosed to any other person  
12 without the written informed consent of the convicted or  
13 alleged offender. A person to whom the results of a test  
14 have been disclosed under this subchapter is subject to the  
15 confidentiality provisions of section 141A.9, and shall not  
16 disclose the results to another person except as authorized by  
17 section 141A.9, subsection 2, paragraph "i".

18 5. If testing is ordered under this subchapter, the court  
19 shall also order periodic testing of the convicted offender  
20 during the period of incarceration, probation, or parole or of  
21 the alleged offender during a period of six months following  
22 the initial test if the physician or other practitioner who  
23 ordered the initial test of the convicted or alleged offender  
24 certifies that, based upon prevailing scientific opinion  
25 regarding the maximum period during which the results of an  
26 HIV-related test may be negative for a person after being  
27 HIV-infected, additional testing is necessary to determine  
28 whether the convicted or alleged offender was HIV-infected  
29 at the time the sexual assault or alleged sexual assault was  
30 perpetrated. The results of the test conducted pursuant to  
31 this subsection shall be released only to the physician or  
32 other practitioner who orders the test of the convicted or  
33 alleged offender, the convicted or alleged offender, the victim  
34 counselor or person requested by the victim to provide the  
35 counseling regarding the HIV-related test and results who shall

1 disclose the results to the petitioner, the physician of the  
2 victim, if requested by the victim, and the county attorney  
3 who ~~may use the results as evidence in the prosecution of the~~  
4 ~~sexual assault or in the prosecution of the offense of criminal~~  
5 ~~transmission of HIV under chapter 709C~~ filed the petition for  
6 HIV-related testing under section 915.42.

7 Sec. 8. REPEAL. Chapter 709C, Code 2013, is repealed.

8 EXPLANATION

9 This bill creates the Contagious or Infectious Disease  
10 Transmission Act and establishes crimes relating to the  
11 intentional transmission of a contagious or infectious disease.

12 The bill provides that a person commits a class "C" felony  
13 when the person knows the person is infected with a contagious  
14 or infectious disease and exposes an uninfected person to  
15 the contagious or infectious disease with the intent that  
16 the uninfected person contract the contagious or infectious  
17 disease, and the conduct results in the uninfected person  
18 becoming infected with the contagious or infectious disease.  
19 A class "C" felony is punishable by confinement for no more  
20 than 10 years and a fine of at least \$1,000 but not more than  
21 \$10,000.

22 A person commits a class "D" felony when the person knows  
23 that the person has a contagious or infectious disease and  
24 exposes an uninfected person to the contagious or infectious  
25 disease with the intent that the uninfected person contract  
26 the contagious or infectious disease, but the conduct does  
27 not result in the uninfected person becoming infected with  
28 the contagious or infectious disease. A class "D" felony is  
29 punishable by confinement for no more than five years and a  
30 fine of at least \$750 but not more than \$7,500.

31 A person commits an aggravated misdemeanor when the person  
32 knows the person is infected with a contagious or infectious  
33 disease and exposes an uninfected person to the contagious  
34 or infectious disease acting with a reckless disregard as  
35 to whether the uninfected person contracts the contagious

1 or infectious disease, and the conduct results in the  
2 uninfected person becoming infected with the contagious or  
3 infectious disease. An aggravated misdemeanor is punishable by  
4 confinement for no more than two years and a fine of at least  
5 \$625 but not more than \$6,250.

6 The bill provides that becoming pregnant while infected with  
7 a contagious or infectious disease, continuing a pregnancy  
8 while infected with a contagious or infectious disease, or  
9 declining treatment for a contagious or infectious disease  
10 during pregnancy does not constitute a crime under the bill.  
11 The bill also specifies that evidence that a person knows the  
12 person is infected with a contagious or infectious disease and  
13 has engaged in conduct that exposes others to the contagious or  
14 infectious disease, regardless of the frequency of the conduct,  
15 is insufficient on its own to prove the intent to transmit  
16 the contagious or infectious disease. Additionally, the bill  
17 specifies that a person does not act with the intent or the  
18 reckless disregard required to commit the crimes specified  
19 under the bill if the person takes practical means to prevent  
20 transmission, or if the person informs the uninfected person of  
21 the person's contagious or infectious disease status and offers  
22 to take practical means to prevent transmission but that offer  
23 is rejected by the uninfected person subsequently exposed to  
24 the infectious or contagious disease. Under the bill, it is an  
25 affirmative defense to a charge under the bill if the person  
26 exposed to the contagious or infectious disease knew that the  
27 infected person was infected with the contagious or infectious  
28 disease at the time of the exposure and consented to exposure  
29 with that knowledge.

30 The bill also repeals the provision establishing the knowing  
31 transmission of the human immunodeficiency virus (HIV) as  
32 a crime under Code section 709C.1. Under current Code, a  
33 person commits criminal transmission of HIV if the person,  
34 knowing that the person's human immunodeficiency virus status  
35 is positive, engages in intimate contact with another person;

1 transfers, donates, or provides the person's blood, tissue,  
2 semen, organs, or other potentially infectious bodily fluids  
3 for transfusion, transplantation, insemination, or other  
4 administration to another person; or dispenses, delivers,  
5 exchanges, sells, or in any other way transfers to another  
6 person any nonsterile intravenous or intramuscular drug  
7 paraphernalia previously used by the person infected with the  
8 human immunodeficiency virus. Under current law, criminal  
9 transmission of the human immunodeficiency virus is a class "B"  
10 felony, which is punishable by confinement for no more than 25  
11 years. The bill also makes conforming amendments throughout  
12 the Code to eliminate references to the repealed Code section.